DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption from the

Vehicle Theft Prevention Standard;

NISSAN

AGENCY: National Highway Traffic Safety Administration (NHTSA)

Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full Nissan North America, Inc.'s (Nissan) petition for exemption of the Juke vehicle line in accordance with 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard*. This petition is granted, because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). Nissan requested confidential treatment of specific information in its petition by letter dated November 29, 2011. The agency addressed Nissan's request for confidential treatment by letter dated December 29, 2011.

DATES: The exemption granted by this notice is effective beginning with the 2013 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43-439, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Ms. Ballard's telephone number is (202) 366-5222. Her fax number is (202) 493-2990.

SUPPLEMENTAL INFORMATION: In a petition dated November 29, 2011, Nissan requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the MY 2013 Nissan Juke vehicle line. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under §543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Nissan provided a detailed description and diagram of the identity, design and location of the components of the antitheft device for the Juke vehicle line. Nissan will install a passive transponder-based, electronic immobilizer, antitheft device as standard equipment on its Juke vehicle line beginning with MY 2013. Major components of the antitheft device will include an engine control module, immobilizer/body control module (BCM), immobilizer antenna and a security indicator light. Nissan will also install an audible and visible alarm system on the Juke as standard equipment. Nissan stated that activation of the immobilization device occurs automatically when the ignition key is turned to the "OFF" position and all the doors are closed and locked through the use of the key or the remote control mechanism. Deactivation occurs when all the doors are unlocked with the key or remote control mechanism. Nissan's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in §543.5 and the specific content requirements of §543.6.

Nissan stated that the immobilizer device prevents normal operation of the vehicle without the use of a special key. Nissan further stated that installation of the theft alarm system in the device has been designed to protect the belongings within the vehicle and the vehicle itself

from being stolen when the back door and all of the side doors are closed and locked. The alarm system is activated when any attempt is made to open any of the vehicle doors without the use of the key or remote control mechanism. Nissan stated that when the alarm is activated, the head lamps will flash and the horn will sound. Nissan stated that deactivation of the alarm can only occur when the driver's side door is unlocked with the key or the remote control device.

In addressing the specific content requirements of 543.6, Nissan provided information on the reliability and durability of the device. Nissan stated that its antitheft device is tested for specific parameters to ensure its reliability and durability. Additionally, Nissan stated that the immobilizer device satisfies the requirements of European Directive ECE R116, including tamper resistance. Nissan provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its specified requirements for each test.

Nissan provided data on the effectiveness of the antitheft device installed on its Juke vehicle line in support of the belief that its antitheft device will be highly effective in reducing and deterring theft. Nissan referenced the National Insurance Crime Bureau's data which it stated showed a 70 percent reduction in theft when comparing MY 1997 Ford Mustangs (with a standard immobilizer) to MY 1995 Ford Mustangs (without an immobilizer). Nissan also referenced the Highway Loss Data Institute's data which reported that BMW vehicles experienced theft loss reductions resulting in a 73 percent decrease in relative claim frequency and a 78 percent lower average loss payment per claim for vehicles equipped with an immobilizer. Additionally, Nissan stated that theft rates for its Pathfinder vehicle experienced reductions from model year (MY) 2000 to 2001 with implementation of the engine immobilizer device as standard equipment and further significant reductions subsequent to MY 2001.

Specifically, Nissan noted that the agency's theft rate data for MY's 2001 through 2006 reported theft rates of 1.9146, 1.8011, 1.1482, 0.8102, 1.7298 and 1.3474 respectively for the Nissan Pathfinder after installation of an immobilizer device.

In support of its belief that its antitheft device will be as effective as compliance with the parts-marking requirements in reducing and deterring vehicle theft, Nissan compared its device to other similar devices previously granted exemptions by the agency. Specifically, it referenced the agency's grant of a full exemption to General Motors Corporation for the Buick Riviera and Oldsmobile Aurora (58 FR 44872, August 25, 1993), and Cadillac Seville vehicle lines (62 FR 20058, April 24, 1997) from the parts-marking requirements of the theft prevention standard. Nissan stated that it believes that since its device is functionally equivalent to other comparable manufacturers' devices that have already been granted parts-marking exemptions by the agency such as the "PASS-Key III" device used on the 1997 Buick Park Avenue, the 1998 Cadillac Seville and the 2000 Cadillac DeVille, Pontiac Bonneville, Buick LeSabre and Oldsmobile Aurora lines, the Nissan immobilizer device has the potential to achieve the level of effectiveness equivalent to the "PASS-Key III" device.

Based on the supporting evidence submitted by Nissan on the device, the agency believes that the antitheft device for the Juke vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541). The agency concludes that the device will provide the five types of performance listed in §543.6(a)(3): promoting activation, attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key, preventing defeat or circumvention of the device by unauthorized persons, preventing operation of the vehicle by unauthorized entrants and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Nissan has provided adequate reasons for its belief that the antitheft device for the Juke vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541). This conclusion is based on the information Nissan provided about its device.

For the foregoing reasons, the agency hereby grants in full Nissan's petition for exemption for the Juke vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2013 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A-1, identifies those lines that are exempt from the Theft Prevention Standard for a given model year. 49 CFR Part 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Nissan decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR Parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Nissan wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

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Christopher J. Bonanti
Associate Administrator for
Rulemaking

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